

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

JEFFREY SHAW,

Plaintiff,

v.

JOSEPH P. RAPPL, f/k/a, FATHER JOSEPH P. RAPPL; THE
DIOCESE OF BUFFALO, N.Y.; and ST. PETER'S ROMAN
CATHOLIC CHURCH SOCIETY OF LEWISTON, N.Y.,

Defendants.

[See the attached Rider for Defendants' Addresses]

Index No.

SUMMONS

Date Index No. Purchased:
Oct. 9, 2019

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is one or more Defendant resides in Erie County, which is located in Erie County, New York.

Dated: New York, New York
October 9, 2019

SIMMONS HANLY CONROY LLC



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RIDER TO SUMMONS

Defendant/Counsel	Service Address
JOSEPH P. RAPPL, f/k/a, FATHER JOSEPH P. RAPPL	212 Round About Road, Holly Springs, North Carolina
THE DIOCESE OF BUFFALO, N.Y.;	795 Main Street, Buffalo, Erie County, New York
ST. PETER'S ROMAN CATHOLIC CHURCH SOCIETY OF LEWISTON, N.Y.	620 Centre Street, Lewiston, Niagara County, New York

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Index No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Jeffrey Shaw, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against Joseph P. Rappl, formerly known as Father Joseph P. Rappl; The Diocese of Buffalo, N.Y.; and St. Peter's Roman Catholic Church Society of Lewiston, N.Y., and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that each Defendant either resides in New York or conducts or, at relevant times conducted, activities in New York that give rise to the claims asserted herein.

2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

3. Venue for this action is proper in the County of Erie pursuant to CPLR 503 in that one or more of the Defendants reside in this County and a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this County.

PARTIES

4. Plaintiff Jeffrey Shaw ("Plaintiff") is an individual residing in Rockville,

Maryland.

5. Defendant Joseph P. Rappl, formerly known as Father Joseph P. Rappl ("Father Rappl") is an individual with a residential address at 212 Round About Road, Holly Springs, North Carolina. At all relevant times, Defendant Father Rappl served as a Roman Catholic priest of Defendant The Diocese of Buffalo, N.Y. Father Rappl retired from the Roman Catholic priesthood in 1999.

6. Defendant The Diocese of Buffalo, N.Y. ("Diocese of Buffalo") is a religious corporation organized pursuant to the New York Religious Corporations Law, with its principal office at 795 Main Street, Buffalo, Erie County, New York. The Diocese of Buffalo is a Roman Catholic diocese. At all relevant times, the Diocese of Buffalo created, oversaw, supervised, managed, controlled, directed and operated parishes or churches of the Diocese of Buffalo, including during all relevant times, St. Peter's Roman Catholic Church Society of Lewiston, N.Y.

7. Defendant St. Peter's Roman Catholic Church Society of Lewiston, N.Y. ("St. Peter's") is a Roman Catholic parish within and under the authority of the Diocese of Buffalo and is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 620 Centre Street, Lewiston, Niagara County, New York. At all relevant times, the Diocese of Buffalo created, oversaw, supervised, managed, controlled, directed and operated St. Peter's.

FACTS COMMON TO ALL CLAIMS

8. Plaintiff and his family were parishioners of and attended St. Peter's when Plaintiff was a minor child. Plaintiff also served as an altar boy at St. Peter's when Plaintiff was approximately ten to thirteen years of age.

9. During the times relevant to the allegations set forth herein, Defendant Father Rappl was assigned by Defendant Diocese of Buffalo to be a priest at St. Peter's, where Plaintiff's family were parishioners.

10. Through his positions at, within, or for the Defendants Diocese of Buffalo

and St. Peter's, Father Rappl was put in direct contact with members of the Plaintiff's family, including Plaintiff, a minor parishioner of the Diocese of Buffalo.

11. In approximately 1981 when Plaintiff was approximately eleven years of age, Father Rappl and Plaintiff went into a confessional at St. Peter's. Father Rappl heard Plaintiff's confession and then exited the confessional with Plaintiff.

12. Father Rappl used this encounter after Plaintiff's confession, gained through his position at St. Peter's which granted him access to Plaintiff when Plaintiff was approximately eleven years of age, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff in violation of the laws of the State of New York.

Supervisory Defendants' Responsibility for the Abuse Committed by Father Rappl

13. At all times material hereto, Father Rappl was under the management, supervision, employ, direction and/or control of Defendants Diocese of Buffalo and St. Peter's.

14. Through his positions at, within, or for Defendants Diocese of Buffalo and St. Peter's, Father Rappl was put in direct contact with Plaintiff.

15. Father Rappl used his position at, within, or for Defendants Diocese of Buffalo and St. Peter's and the implicit representations made by them about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create an opportunity to be alone with, and touch, Plaintiff.

16. Defendants Diocese of Buffalo and St. Peter's had the duty to reasonably manage, supervise, control and/or direct priests who served at St. Peter's, and specifically, had a duty not to aid pedophiles such as Father Rappl by assigning, maintaining, and/or appointing them to positions with access to minors.

17. Defendants Diocese of Buffalo and St. Peter's knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Rappl, who sexually abused Plaintiff.

18. Defendant Diocese of Buffalo had a duty to the Plaintiff to properly

supervise Diocese of Buffalo priests to ensure that priests did not use their positions with the Diocese of Buffalo as a tool for grooming and assaulting vulnerable children. Defendant Diocese of Buffalo knew or should have known that Father Rappl used his positions with the Diocese of Buffalo to sexually abuse minor children, including the Plaintiff.

Consequences of the Abuse

19. Plaintiff suffered personal physical and psychological injuries and damages as a result of Father Rappl's actions, as well as other damages related thereto, as a result of the childhood sexual abuse Plaintiff sustained.

20. As a direct result of the Defendants Diocese of Buffalo's and St. Peter's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Rappl's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Assault

21. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

22. In approximately 1981 when Plaintiff was approximately eleven years of age, Father Rappl intentionally touched Plaintiff's body when Father Rappl engaged in the sexual behavior and lewd and lascivious conduct described above. Such conduct placed Plaintiff in imminent apprehension of harmful contact, including apprehension of

further sexual contact.

23. As a direct and proximate result of Defendant Father Rappl's actions, which included but were not limited to placing the Plaintiff in imminent and reasonable apprehension of harmful and offensive contact, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

24. By reason of the foregoing, Defendant Father Rappl is liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION

Battery

25. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

26. In approximately 1981 when Plaintiff was approximately eleven years of age, Father Rappl intentionally touched Plaintiff's body when Father Rappl engaged in the sexual behavior and lewd and lascivious conduct described above. Such bodily contact was offensive and without consent, because Plaintiff, as a minor, was incapable of consenting to these acts.

27. As a direct and proximate result of Defendant Father Rappl's actions, which included but were not limited to unjustified harmful and offensive physical contact and touching, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

28. By reason of the foregoing, Defendant Father Rappl is liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION

Intentional Infliction of Emotional Distress

29. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

30. By engaging in the explicit sexual behavior and lewd and lascivious conduct described above, either Defendant Father Rappl intended to inflict emotional distress upon Plaintiff, or Defendant Father Rappl knew or should have known and recklessly disregarded the substantial likelihood that severe emotional distress would be the likely result of his conduct.

31. The conduct of Defendant Father Rappl in engaging in the explicit sexual behavior and lewd and lascivious conduct with a minor described above is extreme and outrageous, beyond all possible bounds of decency, and utterly intolerable in a civilized society.

32. The mental distress and emotional injuries Plaintiff suffered and will continue to suffer were and are lasting and severe.

33. As a direct and proximate result of Defendant Father Rappl engaging in the explicit sexual behavior and lewd and lascivious conduct described above, Plaintiff suffered and will continue to suffer the severe injuries described herein.

34. By reason of the foregoing, Defendant Father Rappl is liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

35. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

36. Defendants Diocese of Buffalo and St. Peter's owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Father Rappl in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Rappl did not use his assigned position to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

37. Defendant Diocese of Buffalo at all relevant times held the parishes of the

Diocese of Buffalo out to be safe places for minors to attend, and its priests as individuals to whom it was safe to entrust the care of minor children. Defendant Diocese of Buffalo entered into an express and/or implied duty to safely treat Plaintiff and assumed the duty to protect and care for him.

38. Father Rappl sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff in St. Peter's when Plaintiff was a minor.

39. Defendants Diocese of Buffalo and St. Peter's negligently hired, retained, directed, and supervised Father Rappl, though they knew or should have known that Father Rappl posed a threat of sexual abuse to minors.

40. Defendants Diocese of Buffalo and St. Peter's knew or should have known of Father Rappl's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

41. Defendants Diocese of Buffalo and St. Peter's were negligent in failing to properly supervise Father Rappl.

42. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

43. At all times material hereto, Defendants Diocese of Buffalo's and St. Peter's actions were willful, wanton, malicious, reckless, negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

44. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

45. By reason of the foregoing, Defendants Diocese of Buffalo and St. Peter's are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION

Negligence/Gross Negligence

46. Plaintiff repeats and re-alleges each and every allegation set forth in

paragraphs 1 through 20 as if fully set forth herein.

47. Defendants Diocese of Buffalo and St. Peter's knew, or were negligent in not knowing, that Father Rappl posed a threat of sexual abuse to children.

48. The acts of Father Rappl described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendants Diocese of Buffalo and St. Peter's.

49. Defendants Diocese of Buffalo and St. Peter's owed Plaintiff, a minor at the relevant times of abuse, a duty to protect him from Father Rappl's sexual deviancy and the consequential damages, both prior to and/or subsequent to Father Rappl's misconduct.

50. Defendants Diocese of Buffalo's and St. Peter's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

51. Defendants Diocese of Buffalo and St. Peter's:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of Father Rappl;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and
- d. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint to occur.

52. At all times material hereto, with regard to the allegations contained

herein, Father Rappl was under the supervision, employ, direction and/or control of Defendants Diocese of Buffalo and St. Peter's.

53. At all times material hereto, Defendants Diocese of Buffalo's and St. Peter's actions were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

54. As a direct and/or indirect result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

55. By reason of the foregoing, Defendants Diocese of Buffalo and St. Peter's are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION

Breach of Non-Delegable Duty

56. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

57. Plaintiff, when he was a minor, was placed in the care and supervision of the Defendants Diocese of Buffalo and St. Peter's for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to participate in religious, educational, youth and recreational activities. There existed a non-delegable duty of trust between Plaintiff and Defendants Diocese of Buffalo and St. Peter's.

58. Plaintiff was a vulnerable child when placed within the care of Defendants Diocese of Buffalo and St. Peter's.

59. As a consequence, Defendants Diocese of Buffalo and St. Peter's were in the best position to prevent Plaintiff's abuse, to learn of Father Rappl's sexual abuse of Plaintiff, and to stop it.

60. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendants Diocese of Buffalo and St. Peter's, Defendants

Diocese of Buffalo and St. Peter's breached their non-delegable duty to Plaintiff.

61. At all times material hereto Father Rappl was under the supervision, employ, direction and/or control of the Defendants Diocese of Buffalo and St. Peter's.

62. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

63. By reason of the foregoing, Defendants Diocese of Buffalo and St. Peter's are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SEVENTH CAUSE OF ACTION

Breach of Fiduciary Duty

64. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

65. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants Diocese of Buffalo and St. Peter's. This relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the agent or servant of the Defendants Diocese of Buffalo and St. Peter's. This entrustment of the Plaintiff to the care and supervision of the Defendants Diocese of Buffalo and St. Peter's, while the Plaintiff was a minor child, required the Defendants Diocese of Buffalo and St. Peter's to assume a fiduciary relationship and to act in the best interests of the Plaintiff, as well as to protect him while he was a minor and vulnerable child.

66. Pursuant to their fiduciary relationship, Defendants Diocese of Buffalo and St. Peter's were entrusted with the well-being, care, and safety of Plaintiff.

67. Pursuant to their fiduciary relationship, Defendants Diocese of Buffalo and St. Peter's assumed a duty to act in the best interests of Plaintiff.

68. Defendants Diocese of Buffalo and St. Peter's breached their fiduciary duty to Plaintiff.

69. At all times material hereto, the actions and/or inactions of Defendants Diocese of Buffalo and St. Peter's were willful, wanton, malicious, reckless, negligent and outrageous in their disregard for the rights and safety of Plaintiff.

70. As a direct result of said conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

71. By reason of the foregoing, Defendants Diocese of Buffalo and St. Peter's are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

EIGHTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

72. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

73. As described above, the actions of Defendants Diocese of Buffalo and St. Peter's, their agents, servants, and/or employees were conducted in a negligent and/or grossly negligent manner.

74. Defendants Diocese of Buffalo's and St. Peter's actions endangered Plaintiff's safety and caused him to fear for his own safety.

75. As a direct and proximate result of Defendants Diocese of Buffalo's and St. Peter's actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered and will continue to suffer the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

76. By reason of the foregoing, Defendants Diocese of Buffalo and St. Peter's are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

NINTH CAUSE OF ACTION

Breach of Duty *in Loco Parentis*

77. Plaintiff repeats and re-alleges each and every allegation set forth in

paragraphs 1 through 20 as if fully set forth herein.

78. While he was a minor, Plaintiff was entrusted by his parents to the control of the Defendants Diocese of Buffalo and St. Peter's, as well as directly to Father Rapp, an agent or servant of Defendants Diocese of Buffalo and St. Peter's, for the purposes of *inter alia*, providing Plaintiff with appropriate guidance and an opportunity to enjoy educational and youth activities under responsible adult supervision. These Defendants owe — and owed — a duty to children entrusted to them to act *in loco parentis* and to prevent foreseeable injuries.

79. Defendants Diocese of Buffalo and St. Peter's breached their duty to act *in loco parentis*.

80. At all times material hereto, Defendants Diocese of Buffalo's and St. Peter's actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

81. As a direct result of Defendants Diocese of Buffalo's and St. Peter's conduct, Plaintiff has suffered and will continue to suffer the injuries and damages described herein.

82. By reason of the foregoing, Defendants Diocese of Buffalo and St. Peter's are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE Plaintiff, demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proved at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent

permitted by law; and

E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: October 9, 2019
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr. _____
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